

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09-CR-00152-RJC

USA

v.

NATHANIEL DEVON BAILEY

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence under 18 U.S.C. § 3582 based on Fair Sentencing Act of 2010 (FSA) and Dorsey v. United States, 132 S. Ct. 2321 (2012), (Doc. No. 87), and his motion for appointed counsel, (Doc. No. 89).

At sentencing, the defendant was found responsible for 15.3 grams of cocaine base, resulting in a base offense level of 20. (Doc. No. 64: Presentence Report (PSR) at ¶ 12). The defendant is mistaken in his claim that this offense level was based on the 100 to 1 ratio that was later reduced by the FSA. (Doc. No. 87: Motion at 2). His initial PSR, based on the 2009 USSG Manual, calculated the base offense level at 24. (Doc. No. 61 at ¶¶ 10, 12). However, prior to his sentencing, a revised PSR calculated the offense level based on the 2010 amendments promulgated in the wake of the FSA. (Doc. No. 64 at 10). Thus, the defendant has already received the benefit of the change in the law on which he relies in the instant motion.

IT IS, THEREFORE, ORDERED that the defendant's motions for a sentence reduction, (Doc. No. 87), and for appointment of counsel, (Doc. No. 89) are **DENIED**.

Signed: May 17, 2013



Robert J. Conrad, Jr.
Chief United States District Judge

